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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,089	02/12/2002	Paul M. Block	K&B-25	3064

7590 03/09/2004

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EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

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DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,089

Applicant(s)

BLOCK ET AL.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 10-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers (4,781,318) in view of Block (4,718,158).

Meyers discloses an automatic apparatus for attaching tags (66 and 66') to articles (Abs. Line 10) comprising means for holding a plurality of tags (Figs. 6 and 7), tag support means (Fig. 1, via support unit 12 and bracket 22) spaced from the tag holding means (Fig. 6), vacuum tag transport means (Fig. 6; via 64') for removing tags one at a time from the tag holding means and placing them on the tag support means (Figs. 6 and 7); fastener dispensing means (Fig. 1; via fastener 20) comprising a hollow needle (30) through which fasteners (28) are ejected (Fig. 1); means for moving the fastener dispensing means relative to the tag support means to cause the needle to pass through the tag and article and means for actuating the fastener dispensing means (Fig. 1; via switch 24 and column 3, lines 43-45). Meyers does not disclose means for clamping the tag on the tag support means. However, Block discloses similar automatic apparatus for attaching tags to articles comprising means for clamping the tag on the tag support means (Fig. 2, via clamping anvil 22).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Meyers automatic apparatus for attaching tags to

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articles by having means for clamping the tag on the tag support means, as suggested by Block, in order to clamp the selected layers of the article beneath the tag and tack feeder to hold the same in the desired tagging position (column 2, lines 33-42).

Regarding claims 2-4: Block discloses an anvil means (Fig. 2) spaced from the tag support means and means for advancing the anvil towards the tag support means to hold the article (Fig. 2, via cylinder 25), and the advancing means is actuated before the fastener dispensing means (Figs. 8-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Meyers automatic apparatus for attaching tags to articles by having an anvil means spaced from the tag support means and means for advancing the anvil towards the tag support means to hold the article, and the advancing means is actuated before the fastener dispensing means, as suggested by Block, in order to clamp the selected layers of the article beneath the tag and tack feeder to hold the same in the desired tagging position (column 2, lines 33-42).

Regarding claim 5: Meyers discloses a needle receiving recess (Fig. 1).

Regarding claim 6: Meyers discloses that the tag transport means (64') moves a tag through a first path section, wherein the tag is moved to a plane substantially perpendicular to the needle and then through a second pat section wherein the tag is moved substantially within the perpendicular plan into alignment with the tag support means (Fig. 7).

Regarding claim 7: Meyers discloses the tag transport means comprises a linearly moveable carriage, an arm with a suction cup and means for rotatably mounting the arm on the carriage (Figs. 6 and 7).

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Regarding claim 8: Meyers discloses the arm mounting means comprises means for keying the arm to the carriage such that the suction cup is coplanar with the lead tag in the tag holding means when the tag is engaged by the suction cup (Figs. 6 and 7).

Regarding claim 9: Meyers discloses that a work surface and means for position adjustably mounting the tag holding means on the work surface for independent positioning in two directions (Figs. 6 and 7).

### ***Response to Arguments***

Applicant's arguments filed 2/2/2004 have been fully considered but they are not persuasive.

Applicants argue in page 2 of the arguments that Meyers's reference does not teach tag support means. However the examiner still considering that the upper service of element 20 as a support service of the tag, see for example (Fig. 7) which is part of bracket 22 (Fig. 1).

Applicants agree that Meyers does not disclose means for moving the fastener dispensing means. However, the examiner believes that Meyers discloses reel 26 associated with dispenser 20 carries fasteners 28, which is dispensed through vertical extending hollow (Fig. 1 and column 3, lines 37-42). In order to dispense the fasteners 28 vertical extending hollow, reel 26 has to be able to rotate through rotation of a shaft or any other mechanical means, which can be considered as means for moving the fastener dispensing means.

Applicants further argue in page 2 of the arguments that Block's anvil 22 illustrated in Fig. 8-13 is used to clamp article 15, not tag 12. The examiner still believes that the article 15 and tag 12 been clamped by clamping anvil 22. While the anvil 22 putting force at the bottom of the article 15 and tag 12 and needle 54 adding force at the top of the tag and article, in

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that situation both the tag and articles been clamped in between clamping anvil 22 and needle 54, see for example (Figs. 8 and 9).

Applicants also argue in page 3 of the arguments that neither Meyers nor Block teach the tag support means neither means for clamping the tag. The examiner as set forth believes that Meyers teaches tag support means (Fig. 7; via top service of 20) and Block teaches clamping means for tag (Figs. 8 and 9; via clamping anvil 22 clamping both the article and tag).

Applicants further argue in page 3 that the applied references could not be combined because in Meyers the tag is fed from above, down on the attached needle and in Block the tag is fed from the side to a location under the attacher. The examiner believes that since the two references are related to the same art of attaching tag to articles it would be obvious to just use the teaching and novelty of using clamping means of Block and modified to Meyers's apparatus in order to clamp the selected layers of the article beneath the tag and tack feeder to hold the same in the desired tagging position, regardless of which directions feeding the tag to the attaching means.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner believes that both references are related to the same art which is attaching tags to articles.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ST.

A handwritten signature in black ink, appearing to read "Mickey Yu", with a stylized flourish at the end.

Mickey Yu  
Supervisory Patent Examiner  
Group 3700